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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|-------------------|
| 10/757,033 | 01/13/2004 | Charles Peter deCler | 1945.60USC1 | 3249 |
| 23552 | 7590 | 08/19/2005 | | EXAMINER |
| MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903 | | | | BASTIANELLI, JOHN |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3751 | |

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------|-----------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/757,033 | DECLER, CHARLES PETER |
| | Examiner | Art Unit |
| | John Bastianelli | 3751 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 January 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 January 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/13/04.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 2 and 7 have the following informalities: In claim 2, line 6 of the claim, it appears that “longitudinal flap disposed long” should be “flexible flap disposed along”. In claim 7, line 11 of the claim, it appears that “a sealing” should be “the sealing”.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 7-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are the exact same as claims 7-10 of U.S. Patent No. US 6,705,591.

Double Patenting

3. Claims 7-10 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 7-10 of prior U.S. Patent No. US 6,705,591. This is a double patenting rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Credle US 4,286,636.

Credle discloses a supporting member of a dispensing valve (Figs. 1-6) with a main body 30 having first and second longitudinal edges 30F oppositely disposed on the supporting member, first and second flexible flaps 30A1 and 30A2 along the first and second longitudinal edges and the flaps cooperate with the sealing portion of a dispensing valve assembly and distribute an interference force exerted by the main body on the sealing portion to prevent damage or deformation. The supporting member is disposed within a housing and the flap is resilient, integrally formed on the supporting member, and formed of a generally radius shape.

6. Alternatively, claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Mackal US 2,859,932.

Mackal discloses a supporting member of a dispensing valve (Figs. 3-10) with a main body 15 having first and second longitudinal edges oppositely disposed on the supporting member, first and second flexible flaps 26 along the first and second longitudinal edges and the flaps cooperate with the sealing portion 17 of a dispensing valve assembly and distribute an interference force exerted by the main body on the sealing portion to prevent damage or deformation. The supporting member is disposed within a housing and the flap is resilient, integrally formed on the supporting member, and formed of a generally radius shape.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Bastianelli whose telephone number is (571) 272-4921. The examiner can normally be reached on M-F (9:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John Bastianelli
Primary Examiner
Art Unit 3751


JB

August 16, 2005